

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID WAYNE ELMORE,

Plaintiff,

No. CIV S-04-2657 GEB EFB P

vs.

TOM L. CAREY, et al.,

Defendants.

ORDER

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Plaintiff has requested the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court does not find the required exceptional circumstances. Plaintiff's motion for the appointment of counsel is therefore be denied.

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1 Accordingly, IT IS HEREBY ORDERED that plaintiff's October 31, 2006
2 motion for the appointment of counsel is denied.

3 DATED: November 13, 2006.

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6 EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE